IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.92 OF 2004

IN

SUMMARY SUIT NO. 4375 OF 2000

Ketan Trading Corporation ..Plaintiffs

versus

Vama Exports Ltd. & Ors. ..Defendants

Mr. S. A. Sawant for the Plaintiffs.

Mr. H. Toor i/b. Ms. N. I. Banal for the Defendants.

CORAM : D. G. DESHPANDE,J.

DATE : 1ST DECEMBER,2004.

P.C. :

. Heard learned counsel for the parties. Summons for Judgment is strongly opposed by the defendants counsel on the ground that when admittedly part of cause of action arose at Ahmedabad, it was necessary for the plaintiffs to obtain leave under Clause XII of the Letters Patent and if such a leave is not obtained then as per the Judgment of **Justice Rebello reported in Bombay Cases Reporter 2002(5) page 1 [Transasia Bio-Medicals Ltd. versus Revijay Clinical Laboratory & Hospital],** defendants were entitled for unconditional leave.

. Sufficient time was granted to Mr. Sawant to find out any other Authority to support his

contention. However, he could not find any other Authority. He repeatedly contended that cheques were issued in Mumbai and they were dishonoured and atleast for the amount covered by the cheques, conditional leave can be granted.

. Firstly, the claim cannot be split up like this, and, secondly the question of obtaining leave goes to the root of the matter. Since all the defendants are residing in Ahmedabad, some of the goods were delivered in Ahmedabad, the Plaintiffs ought to have obtained leave under Clause XII of the Letters Patent. Since that is not done, unconditional leave to defend is granted to the defendants. Suit transferred to the list of commercial causes. Written Statements / points of defence to be filed within a period of twelve weeks from today. Affidavit of documents to be filed within two weeks thereafter. Discovery and inspection within two weeks thereafter. Suit to be placed on regular board for hearing thereafter. Summons for Judgment is disposed of accordingly.

****